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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,027	09/17/2003	David P. Durkin	200304161-2	7933

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

ENG, GEORGE

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,027

Applicant(s)

DURKIN, DAVID P.

Examiner

George Eng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/17/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 9/17/2003 has been considered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Patent No. 6,647,099. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the claimed limitations, i.e., a storage element, an interface, and a control element, are transparently found in U.S. Patent No. 6,647,099 with obvious wording variations.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sells et al. (US PAT. 5,471,522 hereinafter Sells) in view of Boyle (US PAT. 5,938,745).

Regarding claim 1, Sells discloses a method of communication in a system comprising the steps of receiving a request to establish a telephony call (col. 4 lines 65-66), establishing the telephony call in response to the request (col. 4 line 66 through col.5 line 1), detecting for an indication of a type of telephony call after establishing the telephony call (col. 5 line 1-4). Sell differs from the claimed invention in not specifically teaching the steps of storing data relating to security of the system and determining whether the type of the telephony call is permitted based on the permission data relating to security for the system. However, Boyle teaches an arbitrator in a system for arbitrating access to a modem port to insure reliable message delivery comprising storage means for storing a set of identification strings, i.e., data relating to security of the system, and the arbitrator for comparing an identification string of a received incoming call with the set of identification string in order to handle the received incoming call (col. 2 line 43 through col. 4 line 57). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Sells in having the steps of the steps of storing data relating to security of the system and determining whether the type of the telephony call is

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permitted based on the permission data relating to security for the system, as per teaching of Boyle, in order to insure reliable message delivery.

Regarding claims 2-4, Sells discloses the step of detecting that the indication indicates one of a data call, voice call and fax call (col. 5 lines 1-4).

Regarding claim 5, Boyle teaches to access the set of identification string, and the set of identification string distinguish between types of incoming calls that are permitted or not permitted based on security requirements of the system (col. 4 lines 24-35 and col. 8 lines 43-60)

Regarding claims 6-8, Sells teaches to detect for the indication comprising a modem detecting for a tone including at least one of an FSK tone, CNG tone, fax answer tone, and fax training tone, so that the indication of a voice call in response to the modem not detecting any of the FSK tone, CNG tone, fax answer tone, and fax training tone (col. 5 lines 5-30).

Regarding claim 9, Sell teaches to ignore, i.e., disconnect, the request for the type of telephone server when the telephone service is not specified (col. 11 lines 1-3).

Regarding claims 10-11, Boyle teaches to compare incoming string to strings of listening applications (col. 4 lines 28-30) so that one skill in the art would recognize Boyle in having storage means for storing the set of identification strings, i.e., data relating to security of the system, wherein the set of identification strings are obviously being programmed through a telephony application programming interface.

Regarding claim 12, Boyle teaches the arbitrator process for ensuring a given application being worked with a variety of hardware and configuration (col. 8 lines 53-60) so that one skill in the art would recognize the storing, receiving, establishing, detecting and determining acting as part of firewall feature.

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Regarding claim 13, the limitations of the claim are rejected as the same reasons set forth in claim 1.

Regarding claim 14, the limitations of the claim are rejected as the same reasons set forth in claim 9.

Regarding claims 15-17, the limitations of the claims are rejected as the same reasons set forth in claims 6-8.

Regarding claims 18-19, Boyle teaches the arbitrator comprising software code and a processor on which the software code is executable and a firmware and a modem on which the firmware is executable (col. 2 lines 43-62).

Regarding claim 20, the limitations of the claim are rejected as the same reasons set forth in claim 12.

Regarding claim 21, the limitations of the claim are rejected as the same reasons set forth in claim 1.

Regarding claim 22, the limitations of the claim are rejected as the same reasons set forth in claims 2-4.

Regarding claim 23, the limitations of the claim are rejected as the same reasons set forth in claim 12.

Conclusion

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

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Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, V.A., Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tuesday to Friday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz, can be reached on (703) 305-4870. The fax phone number for the organization where this application or proceeding is assigned is 703-308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



George Eng
Primary Examiner
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